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R. CARSWELL,
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Toronto, March, 1878.

W. M. Maclean
GENERAL RULES

OF THE

MARITIME COURT

OF

ONTARIO

WITH

FORMS AND TARIFF OF COSTS AND FEES.

OTTAWA:

PRINTED BY MACLEAN, ROGER & Co. WELLINGTON ST.
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GENERAL RULES of the Maritime Court of Ontario
with forms and tariff of costs and fees.

In pursuance of "The Maritime Jurisdiction Act, 1877," and with the approval of the Governor in Council I, Kenneth Mackenzie, Judge of the Maritime Court of Ontario: do hereby make the following general rules.

I.—*Interpretation.*

1. In these rules, and all rules to be passed hereafter, the following words shall have the meanings hereby assigned to them, besides their ordinary meanings, unless there be something in the subject-matter or context repugnant to such construction, viz:—

(1.) Words importing the singular number shall include the plural, and words importing the plural number shall include the singular.

(2.) Words importing the masculine gender shall include females, and shall apply to bodies corporate as well as to individuals.

(3.) "The Act" shall mean "The Maritime Jurisdiction Act, 1877."

(4.) "The Court" shall mean "The Maritime Court of Ontario."

(5.) "The Judge" shall mean the Judge of the said Court for the time being, or other person lawfully authorized to discharge the duties of the Judge.

(6.) "Surrogate Judge" shall mean a Surrogate Judge appointed by the Governor in Council under the Act, or other person lawfully authorized to discharge the duties of the Surrogate Judge.

(7.) "The Registrar" shall mean the Registrar of the said Court for the time being, or other person lawfully authorized to discharge the duties of the Registrar.

(8.) "Deputy Registrar" shall mean a Deputy Registrar appointed by the Governor in Council, at the city, town or place where a Surrogate Judge shall have been appointed, or other person lawfully authorized to discharge the duties of the Deputy Registrar.

(9.) "Marshal" shall mean the Marshal of the Court for the time being, or other person lawfully authorized to discharge the duties of the Marshal.

(10.) "Deputy Marshal" shall mean a Deputy Marshal appointed by the Governor in Council, at the city, town or place where a Surrogate Judge shall have been appointed, or other person lawfully authorized to discharge the duties of the Deputy Marshal.

(11.) "Examiner" shall mean an Examiner appointed under the Act by the Governor in Council.

(12.) "Counsel" shall mean and include any Barrister or Advocate entitled to plead in the Court.

(13.) "Proctor" shall mean and include any Attorney, Solicitor or Proctor entitled to practice in the said Court, or the party himself if conducting his cause in person.

(14.) "Party" or "Person" shall include a corporation or other public body.

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(15.) "Oath" "Affidavit" and "Swear" shall respectively include affirmation, declaration, affirm and declare, in the case of persons allowed by law to affirm and declare instead of swearing.

(16.) "Month" shall mean a calendar month.

II.—Short Title.

2. In referring to these Rules it shall be a sufficient designation to use the expression "*The Maritime Court Rules, 1877.*"

III.—Institution of Cause.

3. A plaintiff desiring to institute a cause shall file with the Registrar or Deputy Registrar a petition addressed "Unto the Maritime Court of Ontario," and thereupon the cause shall be entered by the Registrar or Deputy Registrar in a book to be kept by him called "The Cause Book."

4. Causes shall be numbered in the order in which they are instituted, and the number of the cause shall be written by the Registrar or Deputy Registrar on all papers filed with him in the cause.

5. Such petition must contain.

(1.) The name and description of each party plaintiff.

(2.) The name of each party defendant, if the cause be *in personam*.

(3.) The name and nature of the property proceeded against if the cause be *in rem*.

(4.) A statement of the plaintiff's case in clear and concise language.

(5.) A prayer for the specific relief to which the plaintiff supposes himself entitled, but a prayer for general relief may be added.

IV.—*Proctors and parties acting in person, and service on them respectively.*

6. Upon every writ sued out and upon every petition, demurrer, answer or other pleading or proceeding, there shall be endorsed the name or firm and place of business of the proctor or proctors, by whom such writ has been sued out, or such pleading or other proceeding has been filed; and when such proctors are agents only, then there shall be further endorsed thereon the name or firm and place of business of the principal proctor.

7. All writs, pleadings, notices, orders, warrants and other documents and written communications which do not require personal service upon the party to be affected thereby, may be served upon his proctor or upon the agent of such proctor named in the proctor and agents book provided for by rule 273 and kept in the office of the Registrar or Deputy Registrar with whom the petition in the case is filed. And if any such proctor neglect to cause the name of his agent to be specified in such book, the posting up a copy of any such writ, pleading, notice, order, warrant or other document or written communication for the proctor so neglecting as aforesaid, in the office of the Registrar or Deputy Registrar, as the case may be, is to be deemed sufficient service.

8. Every party suing or defending in person is to cause to be endorsed or written upon every writ which he sues out, and upon every petition, demurrer, answer or other pleading or proceeding, his name and place of residence and also (when his place of residence is more than three miles from the office where such pleading or other proceeding is filed) another proper place to be called his address for service, not more than three miles from the said office, where

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9. Where a party sues or defends in person, and no address for service of such party is written or printed pursuant to the directions of rule 8, or where a party has ceased to have a proctor, all writs, notices, orders, summonses, warrants and other documents, proceedings and written communications not requiring personal service upon the party to be affected thereby, shall, unless the Judge or Surrogate Judge shall otherwise direct, be deemed to be sufficiently served upon such party by posting up a copy thereof in the office of the Registrar or Deputy Registrar where the petition is filed. But if an address for service is written or printed as aforesaid, then all such writs, notices, orders, summonses, warrants and other documents, proceedings and written communications, shall be deemed sufficiently served upon such party if left for him at such address for service.

10. Where a party or a proctor causes an answer, demurrer or replication to be filed, he is to serve a copy thereof on the same or the next day on the proctor of the adverse party or on the adverse party himself if he act in person.

11. Where an acceptance of service of any petition, order or other proceeding and an undertaking to answer or appear thereto are given by a proctor, such acceptance and undertaking are to be equivalent to personal service upon the party for whom the same are given, within the meaning of the rules requiring personal service, and an affidavit of personal service is in such case dispensed with.

12. Admissions and acceptances of the service of a petition, order, notice of motion or other paper, upon the opposite proctor need not be verified by affidavit.

13. A party suing or defending by a proctor shall not be at liberty to change his proctor in any cause or matter without an order of the Judge or Surrogate Judge for that purpose, which may be obtained *ex parte*, and until such order is obtained and served and notice thereof given to the Registrar or Deputy Registrar with whom the pleadings are filed, the former proctor shall be considered the proctor of the party.

V.—*Motions.*

14. When the petition has been filed with the Registrar all applications in the cause to the Court or in Chambers shall be heard by the Judge unless he direct the same to be heard before a Surrogate Judge.

When the petition has been filed with a Deputy Registrar all applications in the cause to the Court or in Chambers shall be heard by the Surrogate Judge residing nearest the place where such Deputy Registrar's office is, unless he direct the same to be heard before the Judge or another Surrogate Judge.

15. It shall not be proper to take out a summons to appear before the Judge or Surrogate Judge, but all applications to the Judge or Surrogate Judge in Court or in Chambers requiring notice to another party, and not otherwise specially provided for by these rules, shall be made by motion upon notice of such motion being given to such other party.

16. A notice of motion by a party to the suit may be served with the petition or at any time after the petition is served without leave.

17. There must be at least two clear days between the service of a notice of motion, and the day named in the notice for hearing the motion, unless the Judge or Surrogate Judge gives special leave to the contrary; and in the computation of such two clear

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days, Sundays and days on which the offices are closed are not to be reckoned. If the Judge or Surrogate Judge do not attend to hear the motion at the time named in the notice the application may be made at the first time thereafter that he sits in Court or Chambers without serving a new notice of motion.

18. Motions may be made to the Judge or Surrogate Judge either in Court or in Chambers.

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19. All the affidavits upon which a notice of motion is founded must be filed before the service of the notice of motion; and affidavits in answer must be filed not later than the day before that appointed for the hearing of the motion.

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20. No motion shall be made to the Judge in Court save by counsel or by a party conducting his own cause in person. Proctors may be heard on any motion before the Judge in Chambers.

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21. Any notice of motion may be transferred from the Chamber to the Court list or *vice versa* as the Judge may direct.

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22. A notice of motion to set aside any proceeding for irregularity must specify clearly the irregularity complained of.

VI.—*Sittings of Court.*

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23. The sittings of the Court and sittings in Chambers shall be fixed and regulated by the Judge or Surrogate Judge at such times and in such manner as he shall think fit and necessary for the due administration of Justice.

VII.—*Service of Petitions.*

24. The copy of the petition to be served shall be certified as a true copy by the Registrar or Deputy

Registrar with whom the same is filed, the date of the filing of the petition shall be written on such copy, and upon each page thereof shall be impressed the seal of the Court.

25. When the cause is *in rem* there shall be endorsed upon the copy of the petition to be served a notice to the effect of form No. 1 in the Schedule A hereto.

And when the cause is *in personam*, to the effect of Form No. 2 in such Schedule.

26. When the cause is *in rem* and the ship is or the ship and cargo are to be arrested, the copy of petition to be served is to be affixed on the main mast or some conspicuous part of the vessel.

When goods only are to be arrested (either for the purpose of proceeding against such goods or the freight due thereon) the copy of the petition to be served is to be affixed on part of the goods or left with the person in whose actual custody the goods may be.

27. In all other cases when the cause is *in rem* the petition is to be served in the same manner as a warrant for the arrest of the property proceeded against was served under the practice in force at the time of its abolition in the instance side of the High Court of Admiralty in England.

28. When the cause is *in personam* the petition may be served by any person to whom the same may be entrusted for service.

29. In a cause *in personam* when personal service of the petition cannot be effected the Judge or Surrogate Judge may order some other mode of service, or dispense with the service altogether.

30. When a party is suing in a cause of damage and a cross cause *in personam* is instituted, the service of the petition in the cross cause may be made

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upon the proctor of the party suing in the original cause, and such service shall be sufficient.

31. Service of a petition upon a corporation aggregate is to be effected by personal service of the copy thereof upon the president, manager, or other head officer, or the cashier, treasurer or secretary at the head office, or at any branch or agency in Ontario, or on any other person discharging the like duties.

32. The service of a petition is to be of no validity if not made within twelve weeks after the filing of the petition.

33. The service of an amended petition upon a party added by amendment, is to be of no validity if not made within twelve weeks after the amendment.

34. Service may be allowed when made after the periods above limited, upon its being made to appear to the satisfaction of the Judge or Surrogate Judge that due diligence has been used in effecting service.

35. In case the application for the allowance of the service is made within three weeks after the service, the order need not be served, but the defendant is to have two weeks to answer beyond the time allowed in that behalf.

36. In case the application is not made within four weeks after the service of the petition the order for allowance of the service may be made on such terms as the Judge or Surrogate Judge sees fit.

37. Affidavits of the service of the copy of a petition are to state where, when and how such service was effected, but no copy of the petition is to be annexed. The affidavit is to state what endorsements were upon the copy so served and must set out such endorsements in full.

VIII.—*Pleadings.*

38. The mode of pleading in the Court and the effect of the pleadings shall, subject to the provisions of these rules, be as far as applicable similar to the mode of pleading now in force, and the effect of pleadings in a suit in the Court of Chancery at Toronto and the powers of the Court or the Judge or Surrogate Judge in respect of pleadings and their effect shall, so far as applicable, be the same as the powers of the said Court of Chancery or a Judge thereof.

The first pleading shall be called the petition, the second the answer or demurrer, and the third the replication.

39. The signature of counsel or proctor to pleadings is unnecessary.

40. All defences are to be presented to the Court by demurrer or answer or both according to circumstances.

41. All the pleadings in a cause must be filed at the same office.

IX.—*Warrants.*

42. If the cause is *in rem* the plaintiff may, on filing an affidavit (and if necessary the other papers in rules 44 and 45 mentioned), take out a warrant for the arrest of the property proceeded against.

43. The affidavit shall be made by a person having a knowledge of the facts, and shall set forth the name and description of each party plaintiff, the name and nature of the property proceeded against, the nature and amount of the claim and that it has not been satisfied.

44. In a cause of necessities and in a cause of wages the national character of the vessel proceeded against shall be stated in the affidavit, and in a wages

case against a foreign vessel notice of the institution of the cause shall be given to the Consul of the State to which the vessel belongs, if there be one resident either in Toronto or in the place where the petition is filed, and a copy of the notice with proof of service thereof shall be filed with the affidavit.

45. In a cause of bottomry, the original bottomry bond, and if in a foreign language a correct translation thereof, shall be produced for the inspection and perusal of the Registrar, and a copy of the bond or of the translation thereof certified by some competent person to be correct shall be filed with the affidavit.

46. The Registrar or Deputy Registrar, as the case may be, may issue the warrant which may be in the form No. 3 of Schedule A to these rules, and he may issue it although the affidavit may not contain all the required particulars.

In a wages cause he may also waive the service of the notice, and in a cause of bottomry the production of the bond.

47. The warrant shall be addressed to the Marshal and to all Deputy Marshals of the Court and shall be delivered to such of them as the Registrar or Deputy Registrar may, with a view of saving expense, think best, and shall be executed by him or his substitutes, and a copy of the petition shall be served at the same time. Immediately after execution the warrant shall be returned by the Marshal or Deputy Marshal and filed with the Registrar or Deputy Registrar who issued the same, and notice of the execution thereof shall be given by the Marshal or Deputy Marshal to the proctor who issued same.

48. In a cause of restraint and in a cause of possession, the warrant shall be issued by the Registrar or Deputy Registrar, as the case may be, without an order, upon an affidavit, made by a person having a knowledge of the facts, being filed verifying all material allegations in the petition.

49. When a ship is, or a ship and cargo are to be arrested, a copy of the warrant is to be affixed on the main mast or some conspicuous part of the vessel, and when goods only are to be arrested (either for the purpose of proceeding against such goods or the freight due thereon) a copy of the warrant is to be affixed on part of the goods or left with any person in whose actual custody the goods may be. In all other cases the warrant is to be served according to the practice in force at the time of its abolition in the instance side of the High Court of Admiralty in England.

50. Whenever the property to be arrested is at a distance from the Marshal or any Deputy Marshal, the Registrar or Deputy Registrar may, with the view of saving expense, address the warrant to some literate person in the neighborhood of the property, in which case such person shall with respect to the warrants perform the same duties and be entitled to the same fees as the Marshal, or Deputy Marshal would have performed and been entitled to had the warrant been executed by him.

51. The Registrar or Deputy Registrar shall whenever a warrant is addressed to a person other than the Marshal or Deputy Marshal give to such person all necessary instructions as to the execution thereof.

X.—*Detainers.*

52. A proctor desiring to detain any property which he has reason to believe will be removed out of the jurisdiction of the Court before the warrant can be served may, with the warrant, take out at his party's expense, a detainer; such detainer may be served by the proctor or any person entrusted with the service thereof and shall not continue in force for more than six days from the date thereof exclusive of the day of such date, nor after the service of the warrant. A detainer shall be in the form No. 4 of Schedule A hereto or to the like effect.

XI.—Two or more causes against the same property.

53. When the property is under arrest of the Court, if there be a second or subsequent cause against the same property, it shall not be necessary to take out a warrant for the further arrest thereof, but if in such second or subsequent cause such requirements as would have entitled the plaintiff to a warrant had the property not been under arrest be complied with, the property shall be held as under arrest in such second or subsequent cause also, and the Registrar, or Deputy Registrar as the case may be, shall issue his certificate to that effect, and an office copy of such certificate shall be annexed to and served with the copy of the petition to be served.

54. If when any property is under arrest of the Court, there be another cause against the same property which has been commenced in another office, it shall not be necessary to take out a warrant for the further arrest thereof, but if in such other cause such requirements as would have entitled the plaintiff to a warrant had the property not been under arrest be complied with, the Registrar or Deputy Registrar, as the case may be, shall issue his certificate to that effect, which certificate shall be filed with the Registrar or Deputy Registrar who issued the warrant under which the property has been arrested, and thereupon the property shall be held as under arrest in such other cause and shall only be released upon the certificate of the Registrar or Deputy Registrar with whom the other cause has been instituted to the effect that the party seeking the release is entitled thereto. An office copy of the first mentioned certificate shall be annexed to and served with the copy of the petition to be served in such other cause.

If bail is to be given in such other cause the proceedings relating thereto are to be taken in the office of the Registrar or Deputy Registrar with whom the cause is instituted.

XII.—*Causes in rem by default.*

55. If after the expiration of fourteen days from the service of the petition an answer thereto be not filed or time to answer given the Judge or Surrogate Judge may on the plaintiff's application order a notice of the cause and intended sale to be advertized by him in such public journals and for such time as the Judge or Surrogate Judge may direct.

56. After the expiration of six days from the advertisement of such notice as directed if no answer has been filed or time to answer given the Judge or Surrogate Judge may, on the plaintiff's application and on being satisfied that his claim is well founded, order the property to be sold and the proceeds to be paid into the Registry.

57. If there be two or more causes by default pending against the same property, whether in the same office or not, it shall not be necessary to advertize a notice of the cause and intended sale in more than one of the causes; but if the plaintiff in the cause in which the property is held under arrest do not within twenty days after service of his petition take out an order for and advertize such notice the Judge or Surrogate Judge may allow the plaintiff in another cause to advertize the notice if he shall have received from the Registrar or Deputy Registrar a certificate under rule 53 or rule 54.

58. Within six days from the time when the proceeds have been paid into the Registry the Plaintiff in each case shall have his cause placed on the list for hearing.

59. Upon the hearing of the cause such decree is to be made as the Court thinks just.

60. Any person who would have been entitled to intervene and defend the cause is at liberty to appear at the hearing of the cause, and if he waives all

objections to the previous proceedings but not otherwise he may be heard to argue the case upon the merits as stated in² the petition.

XIII.—*Causes of Possession by Default.*

61. If after the expiration of fourteen days from the service of the petition an answer thereto be not filed or time to answer given, the Judge or a Surrogate Judge may, on the Plaintiff's application, order a notice of the proceedings to be advertized by him in such public journals and for such time as the Judge may direct.

62. After the expiration of six days from the advertisement of such notice as directed, if no answer has been filed or time to answer given, the Plaintiff shall file with the Registrar or Deputy Registrar as the case may be an affidavit of the due advertisement of the notice and shall have the cause placed on the list for hearing.

63. If when the cause comes before the Judge or a Surrogate Judge, he is satisfied that the claim is well founded he may pronounce for the same and decree possession of the vessel accordingly.

XIV.—*Causes in personam in default.*

64. In causes *in Personam* where the defendant after the expiration of twenty-one days from the service of the petition has neglected to answer or demur, the plaintiff may within three months file with the Registrar or Deputy Registrar with whom the petition has been filed the affidavit of service of the petition and a *præcipe* requiring the Registrar or Deputy Registrar to note that the defendant is in default for want of an answer and that the petition is to be taken *pro confesso* against him.

65. If the defendant is in default for want of answer the Registrar or Deputy Registrar, as the case

may be, is to enter a note in the proper book as required by the *præcipe* and the entry is to have the same effect so far as applicable as the entry by the Clerk of Records and writs of the Court of Chancery at Toronto of a notice in the Registry of pleadings, that a defendant is in default for want of answer to a bill of complaint.

66. If all the defendants have been so noted in default for want of answer the plaintiff may, within three months from the entry of the last note, have his case placed on the list for hearing.

67. Upon the hearing of the cause such decree is to be made as the Court thinks just.

68. A defendant who has been so noted in default is at liberty to appear at the hearing of the cause and if he waives all objections to the previous proceedings, he may be heard to argue the case upon the merits, as stated in the petition.

XV.—*Bail.*

69. If bail is to be given the bond may be in the form number 5 of schedule A hereto.

Such bond may be executed in the presence of one witness who must make an affidavit verifying the execution, the sureties must justify by affidavit.

70. Upon the bond being so executed it may with the affidavits of execution and justification be filed with the Registrar or Deputy Registrar, as the case may be, and an appointment may be obtained for its consideration before him.

Twenty-four hours' notice of such appointment, together with the names and addresses of the sureties and the amount of the bond, shall be given, to the plaintiff unless the Judge or Surrogate Judge for special reasons allow a shorter notice to be given, and on the return of the appointment the Registrar or Deputy Registrar may hear the parties and any evidence they may adduce regarding the sufficiency of

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XVI.—*Releases.*

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71. Property arrested by warrant shall only be released under the authority of a written instrument in the form No. 6 of Schedule A hereto, or to the like effect, directed to the Marshal or Deputy Marshal issued by the Registrar or Deputy Registrar as the case may be.

72. A proctor at whose instance any property has been arrested may at any time obtain the release thereof by filing a *præcipe* to withdraw the warrant.

73. A proctor may obtain the release of any property by paying into Court the sum in which the cause has been instituted.

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74. Cargo arrested for freight only may be released upon filing an affidavit as to the value of the freight and upon paying the amount of the freight into Court.

75. In a cause of salvage the value of the property under arrest shall be agreed upon or an affidavit of value filed before the property is released.

76. A proctor who shall have filed a bail bond in the sum in which the cause has been instituted (or such less sum as the Judge or Surrogate Judge may have ordered) which bail bond has been duly allowed under rule 70 or who has paid such sum into Court, and if the cause be one of salvage shall have also filed an affidavit as to the value of the property arrested, shall be entitled to a release of the same from the arrest in the cause unless a caveat against the release thereof has been filed and is still in force.

77. The release when obtained shall be left with the Marshal or Deputy Marshal, as the case may be, by the proctor taking out the same who shall also at the same time pay all costs, charges and expenses attending the care and custody of the property whilst under arrest, and the Marshal shall thereupon release the property from the arrest in that cause.

78. A person in a cause desiring to prevent the release of any property under arrest may file with the Registrar or Deputy Registrar who issued the warrant of arrest a *præcipe* in that behalf, and thereupon a caveat against the release shall be entered in the cause book in each cause in which the property is held under arrest.

79. A party delaying the release of any property by the entry of a caveat shall be liable to be condemned in costs and damages unless he shall shew to the satisfaction of the Judge or Surrogate Judge good and sufficient reason for having so done.

XVII.—*Caveat against Warrant.*

80. A party desiring to prevent the arrest of any property may cause a caveat against the issue of a warrant for the arrest thereof to be entered by the Registrar or any Deputy Registrar in a book to be kept called the "Caveat Warrant Book."

81. For this purpose he shall cause to be filed an undertaking in the form No. 7 of Schedule A hereto or to the like effect, signed by himself or his proctor undertaking to give bail in any cause which may be instituted against the said property in a sum not exceeding an amount to be stated in the undertaking, or to pay such sum into Court, and a caveat against the issue of a warrant for the arrest of the property shall thereupon be entered in the Caveat warrant book.

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82. Within three days from the service of the petition upon the party on whose behalf the caveat has been entered or on his proctor such party shall, if the sum in which the cause is instituted does not exceed the amount for which he has undertaken, give bail in such sum or pay the same into Court.

83. After the expiration of twelve days from the service of the petition, if the party on whose behalf the caveat has been entered, shall not have given bail in such sum, or paid the same into Court, the plaintiff may proceed as if the cause were *in personam* against such party and as if he had been noted in default for want of answer, and may, thereupon, have the cause placed on the list for hearing *pro confesso*.

84. Upon the hearing of the cause such decree is to be made as the Court thinks just. And such decree may be enforced in the usual manner against the party on whose behalf the caveat has been entered and by the arrest of the property if it then be or thereafter come within the jurisdiction of the Court.

85. The preceding rule shall not prevent a proctor from taking out a warrant for the arrest of any property notwithstanding the entry of a caveat in the caveat warrant book, but if after a caveat has been entered, the property be arrested by warrant issued from the office wherein a caveat is entered, or in case the caveat has been entered in another office, then if the property be arrested after notice of the entry of such caveat has been given to the party or his proctor, then the party at whose instance the property has been arrested shall be liable to be condemned in costs and damages, unless he show to the satisfaction of the Judge or Surrogate Judge, good and sufficient reason for having so done.

86. If the caveat has not been entered in the office where the petition is filed, the Registrar or any Deputy Registrar with whom a caveat has been

entered, shall on the plaintiff's application transmit to the Registrar or Deputy Registrar with whom the petition is filed, a certified copy of the undertaking upon which the caveat was entered.

XVIII.—*Caveats.*

87. A caveat whether against the issue of a warrant, the release of property or the payment of money out of the Registry, shall not remain in force for more than six months from the date thereof.

88. A caveat may be withdrawn by the party in whose behalf it has been entered, or by his proctor, but the *præcipe* to lead the withdrawal shall be signed by the party himself or by his proctor personally.

89. Application may be made in Chambers to overrule any caveat.

XIX.—*Amending Petitions.*

90. Any time before answer or demurrer the petition may be amended without order as the plaintiff may be advised, and as often as required. At any time before replication is filed, and within four weeks after the answer or the last of several answers is filed the petition may be once amended without order as the plaintiff may be advised.

The petition may be amended without order at any time for the purpose of rectifying clerical errors in names, dates or sums only.

91. Except in cases provided for by the last preceding order, the petition is not to be amended without the order of the Judge or Surrogate Judge.

92. Where the proposed amendment to the petition in any one place therein exceeds three folios of one hundred words each, the Registrar or Deputy

Registrar with whom the petition is filed may require the petition as proposed to be amended, to be reengrossed and filed.

93. When the petition is amended a first time the amendments shall be made or shown in red ink. When amended a second time the amendments then made shall be made or shown in blue ink, when amended more than twice the amendments shall be made or shown in such manner as the Registrar or Deputy Registrar may think will sufficiently distinguish them from the previous amendments.

XX.— *Supplementary Statements.*

94. Where a plaintiff desires to state or put in issue facts or circumstances occurring after the institution of the suit, if the cause is otherwise in such a state as to allow of an amendment being made in the petition, such facts or circumstances may be introduced into the original petition by way of amendment.

95. If the cause is not in such a state as to allow of the petition being amended the plaintiff may state and put in issue such subsequently occurring facts and circumstances by filing a statement either written or printed to be annexed to the petition.

96. No such statement is to be filed unless accompanied by an affidavit that the matter thereof arose within two weeks next before the filing of such statement, unless the Judge or Surrogate Judge otherwise order. A copy of the affidavit is to be served with a copy of the statement.

97. Proceedings by way of answer and otherwise are to be had and taken on the statement so filed as if the same were embodied in a petition, but the Judge or Surrogate Judge may make any order which he thinks fit for accelerating the proceedings thereunder in any manner that is just and practicable.

XXI.—*Time for Demurring or Answering.*

98. In a cause *in personam* a defendant who has been served with a copy of the petition is to demur or answer an original petition, or petition amended before answer within twenty-one days after the service of the copy of the original or amended petition, as the case may be.

99. When a plaintiff amends his petition after answer, the defendant or his proctor shall, on the plaintiff's application, give up his copy of the petition to be amended, and a defendant desiring to answer the petition as amended is to put in his answer there-to within seven days after service of the petition as amended.

XXII.—*Demurrers.*

100. In a cause *in rem* any person entitled to intervene and defend the cause may demur to the petition at any time before the cause is entered on the list for hearing, and in a cause *in personam* a defendant may demur to the petition at any time within twenty-one days after service thereof upon him.

101. A demurrer shall be in the form No. 8 of Schedule A hereto or to the like effect, and shall state in the margin at least one substantial matter of law intended to be argued. In case a demurrer be allowed on any ground not so stated, the Court may order the party demurring to pay the costs of the demurrer.

102. Upon a demurrer being filed it shall be set down for argument before the Judge or Surrogate Judge upon a *præcipe* in that behalf being filed with the Registrar or Deputy Registrar, as the case may be, a day for the nearing of the demurrer having first been appointed by the Judge or Surrogate Judge.

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103. Where a demurrer is not set down for argument by the plaintiff or the plaintiff does not obtain leave from the Judge or Surrogate Judge to amend within eight days after notice of filing the demurrer is served, the Defendant may set same down and serve notice thereof.

XXIII.—*Answers.*

104. Answers may be in a form similar to the form No. 9 of Schedule A hereto, and need not be verified by the oath of the defendant.

105. The silence of the answer as to any statement of the petition is not to be construed into an implied admission of its truth.

Any allegation introduced into an answer for the purpose of preventing such implied admission is to be considered impertinent.

106. A defendant is to admit in his answer such of the allegations contained in the plaintiff's petition as are to the knowledge of such defendant true, or as he can readily ascertain to be true, or as he has reason to believe and does believe to be true, and it shall be sufficient if such admissions are expressed to be only for the purposes of the suit in which the same are made.

107. Admissions are in all cases where it is practicable to be by reference to the numbers of the paragraphs in the petition to which they relate, with such qualifications as may be necessary or proper for protecting the interests of the party making such admissions, and it shall not be necessary or proper in any answer to allege ignorance of any fact stated in the petition or answer, or any other reason for not admitting any fact therein alleged.

108. The Judge or Surrogate Judge may permit a supplemental answer to be filed at any period of the suit for the purpose of putting new matter in issue.

in furtherance of justice and upon such terms as may seem proper.

XXIV.—*Replication.—Joining issue.*

109. One replication only is to be filed in a cause unless the Judge or Surrogate Judge orders otherwise. It is to be in the form set forth in form number 10 Schedule A hereto, or as near thereto as circumstances admit and require, and upon the filing of the replication the cause is to be deemed at issue.

110. A plaintiff is to admit in his replication such facts alleged by the answer as are to the knowledge of the plaintiff true, or as he can readily ascertain to be true, or as he has reason to believe and doth believe to be true. And it shall be sufficient if such admissions are expressed to be only for the purposes of the suit in which the same are made.

111. Admissions are in all cases where it is practicable to be by reference to the numbers of the paragraphs in the answer to which they relate, with such qualifications as may be necessary or proper for protecting the interest of the party making the admissions, and it shall not be necessary or proper to allege ignorance of any fact stated in the answer, or any other reason for not admitting any fact therein alleged.

112. Where the plaintiff has not amended his petition, he is either to file his replication or have the cause entered on the list for hearing on petition and answer within one month after the filing of the last answer.

113. Where the plaintiff amends his petition and no answer is put in thereto, and no notice of an application for further time to answer is served within seven days after service of the petition as amended, the plaintiff after the expiration of such seven days but within fourteen days from the time of

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114. Where the plaintiff amends his petition after answer, and a defendant within seven days after the service of the petition as amended serves notice of an application for further time to answer the amendments, but such application is refused, the plaintiff is within fourteen days after such refusal either to file his replication or have the cause entered on the list for hearing on petition and answer.

115. Where a defendant puts in an answer to amendments the plaintiff must either file his replication or have the cause entered on the list for hearing on petition and answer within fourteen days after the filing of such answer, unless he obtain in the meantime an order for leave to amend the petition.

XXV.—*Written proceedings generally.*

116. Pleadings and all other proceedings in a cause may be written or printed or partly written and partly printed, and where wholly printed, dates and sums occurring therein are to be expressed by figures instead of words.

117. All pleadings or other proceedings are to be written or printed neatly and legibly on good paper, of the size and form in use in the Court of Chancery at Toronto; and if printed, they are to be printed with pica type leaded, the Proctor is not to be entitled to the costs of any pleading or the proceeding which is not in conformity with this rule, and the Registrar and Deputy Registrar is to refuse to file the same.

118. Every petition and answer filed, and every affidavit to be used in any cause or matter is to be divided into paragraphs, and every paragraph is to be numbered consecutively and as nearly as may be is to be confined to a distinct portion of the subject.

No costs are to be allowed for any petition, answer or affidavit, or part of any petition, answer or affidavit substantially violating this rule, nor shall any affidavit violating this rule be used in support of or opposition to any motion without the express permission of the Court.

119. If upon the hearing of a cause or matter the Judge or Surrogate Judge is of opinion that any pleading, petition or affidavit, or any part of such pleading or affidavit is scandalous, he may order such pleading or affidavit to be taken off the file or may direct the scandalous matter to be expunged, and is to give such directions as to costs as he may think right.

120. A motion to have any pleading or affidavit taken off the file for scandal or to have the scandalous matter expunged, may be made at any time before the hearing of the cause or matter.

121. If upon the hearing of a cause or matter the Judge or Surrogate Judge is of opinion that any pleading or affidavit is of unnecessary length, he may either direct payment of a sum in gross, or in lieu of taxed costs therefor, or may direct the taxing-officer to look into such pleading or affidavit and to distinguish what part or parts thereof is, or are of unnecessary length, and to ascertain the costs occasioned to any party by any unnecessary matter, and the Judge or Surrogate Judge is to make such order as he thinks just for the payment set off or other allowance of such costs by the party or his proctor.

XXVI.—*Production of Documents.*

122. The plaintiff or defendant may, at any time after answer, or when the application is on behalf of the plaintiff after the time for answering has expired, obtain an order of course upon *præcipe* requiring the adverse party to produce under oath within ten days after the service thereof all deeds, papers, writings, and documents in his custody or power relating to

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to deposit the same with the Registrar or Deputy
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123. Neither plaintiff nor defendant is to be bound
to produce in pursuance of such order any deed,
paper, writing or document which a defendant admit-
ting the same by his answer to be in his custody or
power would not be bound to produce.

124. The order shall not require personal service.
If the party required to obey the same has a proctor
it is to be sufficient to serve the same upon the
proctor.

125. The affidavit to be made by the party who has
been served with the order may be in the form or to
the effect set forth in form No. 11 of Schedule A
hereto.

XXVII.—*Examination of parties.*

126. Any party to a suit may be examined by the
party adverse in point of interest without any special
order for that purpose; and may be compelled to
attend and testify in the same manner, upon the
same terms and subject to the same rules of exami-
nation as any witness except as hereinafter provided.

127. A person for whose immediate benefit a suit
is prosecuted or defended is to be regarded as a party
for the purpose of Rule 126.

128. A plaintiff may be so examined at any time
after answer, and before and at the hearing of the
cause, and a defendant may be examined at any time
after answer, or after the time for answering has
expired, and before and at the hearing of the cause.

129. A person refusing or neglecting to attend at
the time and place appointed for his examination, or
refusing or neglecting to obey an order for production

of documents, may be punished as for a contempt, and the party who desires the examination or production in addition to any other remedy to which he may be entitled may apply to the Judge or Surrogate Judge upon motion either to have the petition taken *pro confesso* or to have it dismissed according to circumstances.

130. The Judge or Surrogate Judge may upon such application, if he think fit, order either that the petition be taken *pro confesso* or that it be dismissed, as the case may be, or make such order as seems just.

131. Where the examining party uses any portion of the examination so taken it shall be competent for the party against whom it is used to put in the entire evidence so taken as well that given in chief as that on the further examination.

132. A party to the record who admits upon his examination that he has in his custody or power any deed, paper, writing or document relating to the matters in question in the cause is to produce the same for the inspection of the party examining him, upon the order of the Judge or Surrogate Judge, or of the officer or examiner before whom he is examined, and for that purpose a reasonable time is to be allowed. But no party shall be obliged to produce any deed, paper, writing or document which a defendant admitting the same by his answer to be in his custody or power would not be bound to produce.

133. Either party may appeal to the Judge or Surrogate Judge from the order of the officer or examiner, and thereupon such officer or examiner is to certify under his hand the question raised and the order made thereon, and the costs of appeal are to be in the discretion of the Judge or Surrogate Judge.

XXVIII.—*Written Depositions.*

134. Written depositions may be taken before the Judge or a Surrogate Judge, Registrar or a Deputy Registrar or an examiner of the Court.

135. Subject to Rule 161 a party in a cause or matter may by a writ of subpoena *ad testificandum* or *duces tecum* require the attendance of a witness before the Judge or Surrogate Judge or before the Registrar or a Deputy Registrar or any examiner for the purpose of using his evidence upon any motion or other proceeding in the cause.

136. Forty-eight hours' notice of the examination is to be given to the opposite party or parties, and the cross-examination in such case is to follow immediately upon the examination and is not to be deferred to any future time.

137. The examination may be conducted either by counsel or by the proctors or by their substitutes, the examiner may put any questions to the witness for eliciting the truth as to him may seem fit.

138. Any person having made an affidavit to be used, or which shall be used on any motion, petition or other proceeding before the Court shall be bound to attend for the purpose of being cross-examined on being served with a writ of subpoena *ad testificandum*, but the Court nevertheless may act on the evidence before it at the time and may make such *interim* order or otherwise as appears necessary to meet the justice of the case.

139. Forty-eight hours' notice of the cross-examination is to be given to the party on whose behalf such affidavit was filed or to the party intending to use the same.

140. When the examination is completed the examiner shall read over the deposition to the witness.

who shall thereupon sign the same, and the examiner shall certify at the foot thereof that the deposition has been read over audibly and distinctly to the witness and that he has acknowledged the same to be true.

141. If the witness refuse to sign his deposition the examiner shall certify at the foot thereof that the witness so refused and that the deposition is in accordance with the evidence given by the witness, and the deposition may thereupon be used.

142. When the examination has been completed the depositions shall be filed with the Registrar or Deputy Registrar.

143. The parties in the cause shall on payment of the regular fees be entitled to have from the examiner certified copies of such depositions or any part thereof immediately after they have been taken.

XXIX.—*Affidavits.*

144. Every affidavit filed in a cause shall be entitled in the Court and in the cause or matter in which it is to be used.

145. Every affidavit filed in a cause shall be expressed in the first person and shall be divided into separate paragraphs, numbered consecutively each paragraph as nearly as may be being confined to a distinct portion of the subject.

146. The name, address and description of every person making an affidavit shall be inserted therein. The deponent shall sign the same and the name of each person making the affidavit, if it be made by more than one, and the date when and place where sworn shall be mentioned in the jurat.

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147. No affidavit shall be received which has been sworn before the party on whose behalf the same is offered, or before his proctor or a partner or clerk of the same.

148. When an affidavit is made by any person who is blind or who from his signature thereto, or otherwise appears to be illiterate, the person before whom the affidavit is made shall state in the jurat that the affidavit was read in his presence, and that the deponent appeared to understand the same, and made his mark or wrote his signature in the presence of the person.

149. Each statement in an affidavit which is to be used as evidence on any proceeding before the Court or before a Judge or before an officer of the Court is to shew the means of knowledge of the person making the statement.

XXX.—*Notice to admit.*

150. After replication is filed, any party may call on the other by notice, to admit any document, saving all just exceptions; and in case of refusal or neglect to admit, the costs of proving the document shall be paid by the party so neglecting or refusing, whatever the result of the cause may be, unless the Judge or Surrogate Judge certify that the neglect or refusal to admit was reasonable, and no costs of proving any document are to be allowed unless such notice is given, except in cases where the omission to give the notice was in the opinion of the taxing officer a saving of expense.

151. The notice is to be served not less than two clear days before the day appointed for inspection.

XXXI.—*Amendments.*

152. The Judge or Surrogate Judge may at all times order that any defect or error appearing in any

pleading, process, notice or other proceeding may be amended.

153. All such amendments shall be made in such manner and upon such terms, as to costs and otherwise, as to the Judge or Surrogate Judge may seem proper, and it shall be the duty of the Judge or Surrogate Judge to allow such amendments as may be necessary to the proper trial of the substantial issues in the cause.

154. No proceeding shall be defeated by any formal objection.

XXXII.—*Setting down for hearing.*

155. At any time after issue joined the cause may be entered on the list for hearing by any party to the cause.

156. If within six days after the cause has been entered on the list for hearing by the plaintiff, or if entered on such list by a defendant if within six days from notice thereof to the plaintiff, the plaintiff do not apply to the Judge or Surrogate Judge for an order fixing the time and place of hearing a defendant may apply for such order.

157. Upon such application the Judge or Surrogate Judge may fix the time and place for the hearing of the cause, and may order such hearing to take place before himself or before the Judge or any Surrogate Judge.

158. Where the hearing is to be had in any town or place other than that in which the pleadings are filed, it shall be the duty of the party who obtains the order fixing the place of hearing to deliver to the Registrar or Deputy Registrar with whom the pleadings are filed, a sufficient time before the day fixed for hearing a *præcipe* requiring him to transmit to the Registrar or Deputy Registrar nearest the place

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XXXIII.—*Proofs.*

159. Causes may be proved by the oral examination of witnesses in open Court, or by written depositions or by affidavit, or partly by one mode partly by another.

160. For the purposes of saving expense and of expediting the trial of the cause, the Judge or Surrogate Judge may, whenever he thinks it in the interest of justice so to do, on application of either party after notice to the other allow the evidence of any witness whose evidence is intended to be used at the hearing to be taken down in writing at any stage of the cause, and inasmuch as it is highly desirable that the Judge or Surrogate Judge, who is to try the cause should himself see and hear the witnesses examined, he shall, so far as his other engagements will permit, order the examination to be had before himself.

161. No evidence to be used on the hearing of a cause other than the examination of a party under rule 126 is to be taken before any examiner or officer of the Court, or by affidavit, unless by the order first had of the Judge or Surrogate Judge, upon special grounds adduced for that purpose, and after notice of the application for the order to the opposite party unless the Judge or Surrogate Judge dispense with such notice.

162. Either proctor in the cause may apply to the Judge or Surrogate Judge to order the attendance of

any witness for examination *visd voce* at the hearing, although the witness may have already made an affidavit or been examined before the Judge or Surrogate Judge or an examiner or officer of the Court.

XXXIV.—*Hearing.*

163. When a cause is called on to be heard the witnesses of all parties are to be examined unless the Judge or Surrogate Judge upon a previous application has postponed the examination or unless the Judge or Surrogate Judge before whom the cause is brought on sees fit to postpone the examination or to allow time for the production of further evidence, and where the examination is postponed or where times allowed for the production of further evidence the order is to be upon such terms, as to the costs or otherwise, as the Judge or Surrogate Judge thinks right to impose.

164. Causes are to be argued at the same time that the witnesses are examined.

165. Where it becomes necessary to adduce evidence or to incur expense otherwise in order to establish or prove facts which, in the opinion of the Judge or Surrogate Judge upon the hearing of the cause, ought to have been admitted, it shall be competent to the Judge or Surrogate Judge to make such order in respect to the costs occasioned by the proof of such facts, as under all the circumstances appears to be just.

XXXV.—*Assessors.*

166. The Judge or Surrogate Judge may require the attendance of assessors in any cause, of his own motion or at the instance of the parties or either of them.

167. Each assessor named in the list of assessors prepared under the Act or being duly summoned three clear days before the day on which his attendance is required, shall give his attendance and assistance accordingly; such summons shall be sent by the Registrar or Deputy Registrar in a registered letter directed to the assessor at his address as specified in the list, or such other address as shall on the application of the assessor be substituted therefor in a copy of the list to be kept in the Registrar's or Deputy Registrar's office. If any assessor being duly summoned shall, without reasonable excuse, fail to attend, or to give his assistance, the Minister of Justice, on the application of the Judge, may remove his name from the list. The Judge or Surrogate Judge shall have power, in case of the absence or illness of any assessor summoned, or for other cause which shall appear to him sufficient, to pass over such assessor and cause another to be summoned in his stead.

168. Each assessor shall be paid in each case the sum of six dollars for each day on which he shall attend in pursuance of any such summons for that purpose as aforesaid, and the fees of each assessor shall be costs in the cause, but shall in the first instance be paid by such of the parties to the cause as the Judge or Surrogate Judge may direct.

169. The assessors shall be selected from such list in rotation unless the Judge or Surrogate Judge for any special reason shall otherwise direct.

XXXVI.—*Decrees and Orders.*

170. The Registrar or Deputy Registrar is to enter at length in a book to be kept for that purpose all decrees and orders made by the Court or the Judge or the Surrogate Judge unless the Judge or Surrogate Judge dispense with the entry thereof.

171. It shall not be necessary in any order to reserve liberty to apply, but any party may apply from time to time as he may be advised; and where any order directs the payment of money out of Court it shall not be necessary to direct that a cheque be drawn for the purpose.

172. In all orders sums are to be stated in dollars and cents.

173. In all cases where a person or party obtains an order upon condition and fails to conform or comply with the condition, he is to be considered to have waived or abandoned the order, as far as the same is beneficial to himself, and any other party or person interested in the matter, on the breach or non-performance of the condition may either take such proceedings as the order in such case may warrant, or such proceedings as might have been taken if the order had not been made.

174. All orders made by the Judge or Surrogate Judge in chambers shall have the force and effect of orders of the Court.

XXXVII.—*Amending decree or order.*

175. An application to amend an order, which has not been drawn up in conformity with the judgment pronounced, so as to make the same conformable thereto, and an application to correct any clerical mistake in an order or an error arising from an accidental slip or omission, may be made in chambers, and the Judge or Surrogate Judge may grant the same if under all circumstances he sees fit.

XXXVIII.—*References.*

176. The following rules shall apply to references to the Registrar or Deputy Registrar, whether the reference be to the Registrar or Deputy Registrar

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177. Every order referring any matter to the Registrar or Deputy Registrar is to be brought into his office within fourteen days after the order is drawn up, or after the same should have been drawn up by the party having the carriage of the same, otherwise any other party to the cause, or any party having an interest in the reference, may assume the carriage of the order and carry the same into the Registrar's or Deputy Registrar's office.

178. Where a party prosecuting a reference does not proceed with due diligence the Registrar or Deputy Registrar is at liberty, upon the application of any other party interested either as a party to the suit or as one who has come in and established his claim before the Registrar or Deputy Registrar under the order, to commit to him the prosecution of the order, and from thenceforth neither the party making default nor his proctor is to be at liberty to attend the Registrar or Deputy Registrar as the prosecutor of the order.

179. Every reference is to be called on and proceeded with at the day and time fixed unless the Registrar or Deputy Registrar in his discretion thinks fit to postpone the same, and in granting an application to postpone the hearing of a reference the Registrar or Deputy Registrar may make such order as to the costs consequent upon such postponement as he thinks just.

180. As soon as the Registrar or Deputy Registrar has entered upon the hearing of a reference, he is to proceed therewith to the conclusion without interruption where that is practicable, and where the reference cannot be concluded in a single day the Registrar or Deputy Registrar is to proceed *de die in diem* without a fresh warrant unless he is of opinion that an adjournment other than *de die in diem* would

be proper, and conducive to the end of justice, and when the adjournment is ordered the Registrar or Deputy Registrar is to note in his book the time and reason thereof.

181. In no case is any matter to be discontinued or adjourned for the mere purpose of proceeding with any other matter, unless that course becomes necessary.

182. Upon the bringing in of an order the proctor bringing in the same is to take out a warrant (unless the Registrar or Deputy Registrar dispense therewith) appointing a time which is to be settled by the Registrar or Deputy Registrar for the purpose of taking into consideration the matters referred by the order, and is to serve the same upon the parties or their proctors unless the Registrar or Deputy Registrar dispense therewith.

183. Upon the return of the warrant to consider, or upon the bringing in of the reference where the warrant is dispensed with, the Registrar or Deputy Registrar is to fix a time at which to proceed to the hearing and determining of the reference, and is to regulate in all other respects the manner of proceeding with the reference and is to give any special directions he thinks fit as to—

1. The parties who are to attend on the several accounts and enquiries.
2. The time at which or within which each proceeding is to be taken.
3. The mode in which any accounts referred to him are to be taken or vouched.
4. The evidence to be adduced in support thereof.
5. The manner in which each of the accounts and enquiries is to be prosecuted.

And such directions may be afterwards varied or added to as may be found necessary.

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184. Where at any time during the prosecution of reference it appears to the Registrar or Deputy Registrar with respect to the whole or any portion of the proceedings that the interests of the parties can be classified, he may require the parties constituting each or any class to be represented by the same proctor; and where the parties constituting such class cannot agree upon the proctor to represent them, the Registrar or Deputy Registrar may nominate such proctor for the purposes of the proceedings before him; and where any one of the parties constituting such class insists on being represented by a different proctor, such party is personally to pay the costs of his own proctor of and relating to the proceedings before the Registrar or Deputy Registrar with respect to which such nomination has been made, and all such further costs as are occasioned to any of the parties by his being represented by a different proctor from the proctor so nominated.

185. To enable the Registrar or Deputy Registrar to exercise all or any of the powers conferred upon him by, or to take the accounts and make the enquiries referred to in the following rules, it shall not be necessary that any of the matters therein mentioned shall have been stated in the pleadings or that evidence thereof shall have been given before the order of reference, or that the order should contain any specific direction in respect thereof.

186. Under an order of reference the Registrar or Deputy Registrar shall have power,—

1. To take the accounts with rests or otherwise.
2. To make all just allowances.
3. To report special circumstances.

4. And generally to take the accounts to enquire, adjudge, and report as to all matters relating thereto, as fully as if the same had been specially referred.

187. Under an order of reference witnesses may be examined before the Registrar a Deputy Registrar or an examiner of the Court.

188. The Registrar or Deputy Registrar may cause parties to be examined and to produce books, papers and writings as he thinks fit, and may determine what books, papers and writings are to be produced, and when and how long they are to be left in his office, or in case he does not deem it necessary that such books and papers and writings should be left or deposited in his office he may give directions for the inspection thereof, by the parties requiring the same, at such time and in such manner as he deems expedient.

189. Where any account is to be taken the accounting party is, unless the Registrar or Deputy Registrar otherwise direct, to bring in the same in the form of debtor and creditor verified by affidavit. The items on each side of the account are to be numbered consecutively, and the account is to be referred to by the affidavit as an exhibit and is not to be annexed thereto.

190. The Registrar or Deputy Registrar if he thinks fit, may direct that in taking accounts, the books of account in which the accounts required to be taken have been kept, or any of them, be taken as *prima facie* evidence of the truth of the matters therein contained, with liberty to the parties interested to take such objection thereto as they may be advised.

191. A party directed by the Registrar or Deputy Registrar to bring in any account or do any other act is to be held bound to do the same in pursuance of the direction of the Registrar or Deputy Registrar without any warrant or written direction being served for that purpose.

192. Before proceeding to the hearing and determining of a reference the Registrar or Deputy Registrar may appoint a day in the meantime if he thinks fit for the purpose of entering into the accounts and enquiries with a view to ascertaining what is admitted and what is contested between the parties.

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193. Where the Registrar or deputy Registrar has omitted to appoint a day for the purposes mentioned in rule 192, he may grant to the party bringing in accounts a warrant to proceed on the same thereof purposes aforesaid, such warrant to be underwritten as follows: "On leaving the accounts of &c. And take notice that you are required to admit the same or such parts thereof as you can property admit."

194. The Registrar or Deputy Registrar may, if he think fit, report whether any and what part of the costs of the reference should be allowed and to whom.

195. A party seeking to charge an accounting party beyond what he has in his account admitted to have received, is to give notice thereof to the accounting party stating so far as he is able the amount so sought to be charged, and the particulars thereof, in a short and succinct manner.

196. The Registrar or Deputy Registrar is to enter in the cause book from time to time the proceedings, taken before him, and the directions he gives in relation to the prosecution of the reference or otherwise.

197. In giving directions and in regulating the manner of proceeding before him the Registrar or Deputy Registrar is to devise and adopt the simplest, most speedy, and least expensive method of prosecuting the reference, and every part thereof, and with that view he is to dispense with any proceedings ordinarily taken, but which he conceives to be unnecessary, and to shorten the periods for taking any proceedings or to substitute a different course of proceedings for that ordinarily taken.

198. Where the Registrar or Deputy Registrar directs parties not in attendance before him to be notified to attend at some future day or for different purposes at different future days, it shall not be necessary to issue separate warrants but the parties shall be notified by one appointment signed by the

Registrar or Deputy Registrar of the proceedings to be taken and of the times by him appointed for taking the same.

199. Where parties are notified by appointment from the Registrar or Deputy Registrar of proceedings to be taken before him, no warrants are to be issued as to such parties in relation to the same proceedings.

200. Parties making default upon such appointments are to be subject to the same consequences as if warrants had been served upon them.

201. As soon as the hearing of any matter pending before the Registrar or Deputy Registrar is completed he shall so inform the parties to the reference then in attendance, and make a note to that effect in his book, and after such entry no further evidence is to be received or proceedings had without the special permission of the Registrar or Deputy Registrar, and the Registrar or Deputy Registrar may proceed to prepare his report or certificate without further warrant except the warrant to settle which is to be served on the parties as the Registrar or Deputy Registrar directs.

202. Parties are to raise before the Registrar or Deputy Registrar in respect of any matter presented in his office, for his decision, all points which may be afterwards raised upon appeal, and in case an appeal is allowed upon any ground not distinctly taken before the Registrar or Deputy Registrar, the Court may order the appellant to pay the costs of the appeal.

203. In the Registrar's or Deputy Registrar's report no part of any account, charge, affidavit, deposition, examination or answer brought in or used in the Registrar's or Deputy Registrar's office is to be stated or recited, but instead thereof the same may be referred to by date or otherwise, so as to inform the Court as to the paper or document so brought in or used.

204. Reports affecting money in Court or to be paid into Court are to set forth in figures in a schedule a brief summary of the sums found by the report, and which may be payable or paid into or out of Court.

205. As soon as the Registrar's or Deputy Registrar's report or certificate is prepared, it is to be delivered to the party prosecuting the reference, or in case he declines to take the same then in the discretion of Registrar or Deputy Registrar to any other party applying therefor; and a common attendance is to be allowed to the party taking the same.

206. Any party affected by a report may file the same or a duplicate thereof in the office of the Registrar or Deputy Registrar, and the filing of a duplicate shall have the same effect as the filing of the report.

207. A report is to become absolute without an order confirming the same, at the expiration of fourteen days after the filing thereof unless previously appealed from.

208. Where the Registrar or Deputy Registrar is directed to appoint money to be paid at some time and place, he is to appoint the same to be paid into some incorporated Bank at its head office, or at some branch or agency office of such Bank in Ontario to the joint credit of the party to whom the same is made payable, and of the Registrar of the Court; the party to whom the same is made payable to name the Bank into which he desires the same to be paid, and the Registrar or Deputy Registrar to name the place for such payment.

209. Where money is paid into a Bank in pursuance of such appointment the party paying may pay the same either to the credit of the party to whom the same is made payable, or to the joint credit of the party and the Registrar, and if the same be paid to

the sole credit of the party, such party shall be entitled to receive the same without an order.

210. Where default is made in the payment of money appointed to be paid into a Bank, the certificate of the cashier, manager or agent of the Bank where the same is made payable, or of the like Bank officer shall be sufficient evidence of default.

XXXIX.—*Sales.*

211. Every commission for the appraisement or sale of property under the decree of the Court shall, unless the Judge or Surrogate Judge otherwise order, be executed by the Marshal or Deputy Marshal, or his substitutes.

212. The Marshal or Deputy Marshal shall pay into Court the gross proceeds of the sale of any property which has been sold by him, and he shall at the same time bring in the account of expenses of sale, with vouchers in support thereof, for taxation by the Registrar or Deputy Registrar.

213. Any person interested in the proceeds may be heard before the Registrar or Deputy Registrar on the taxation of the Marshal's or Deputy Marshal's account of expenses, and an objection to the taxation shall be heard in the same manner as an objection to the taxation of a proctor's bill of costs.

XL.—*Certificate of state of Cause.*

214. Upon the application of any person the Registrar or Deputy Registrar is to certify, as shortly as he conveniently can, the several proceedings had in his office in any cause or matter and the dates thereof.

XLI.—*Motion to dismiss.*

215. A defendant may move the Judge or Surrogate Judge upon notice that the petition may be dismissed

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cases :

1. If the plaintiff not having obtained an order to
enlarge the time does not amend the petition, or does
not file replication, or set down the cause to be heard
on petition and answer within one month after the
answer or the last of the answers has been filed ;
2. If the plaintiff does not, within twelve days after
the cause has been entered on the list for hearing,
apply for an order fixing the time and place for hear-
ing of the cause.

216. Where the plaintiff has amended his petition
after answer a defendant may move the Judge or
Surrogate Judge upon notice that the petition may
be dismissed with costs for want of prosecution.

If the plaintiff not having obtained an order to
enlarge the time does not file the replication or set
down the cause to be heard on petition and answer
within the times following :

1. Within fourteen days after the amendment of
the petition, where no answer has been filed and the
defendant has not obtained or applied for time to
answer ;
2. Within fourteen days after the refusal of an
application for further time, in cases where the de-
fendant desiring to answer has not put in his answer
within seven days after the amendment of the peti-
tion ;
3. Within fourteen days after the filing of the
answer in cases where the defendant has put in an
answer to the amendments unless the plaintiff within
such fourteen days has obtained leave to re-amend
the petition.

217. In every other case where the plaintiff is
delaying the suit unnecessarily any defendant may
move the Judge or Surrogate Judge upon notice that
the petition may be dismissed with costs, for want of
prosecution, after the expiration of one month from

the time of filing his answer, in case the plaintiff not having obtained an order to enlarge the time does not amend the petition, or does not file the replication or set down the cause to be heard on petition and answer within such month; and upon the hearing of the motion the Judge or Surrogate Judge is to make such order for the dismissal of the petition or for the expediting of the suit, or as to costs as under the circumstances of the case seems just.

218. Where a defendant is entitled to give a notice of motion to dismiss it is not to be a sufficient answer to the motion for the plaintiff after being served with the notice, to amend the petition or to file a replication, or to undertake to speed the cause, but it shall be necessary for the plaintiff to show that he has prosecuted his suit with due diligence or that under all the circumstances the petition should not be dismissed.

XLII.—*Costs.*

219. Where the Judge or Surrogate Judge either in Court or Chambers deems it proper to award costs to either party he may, by the order, direct payment of a sum in gross in lieu of taxed costs and direct by and to whom such sum is to be paid.

220. If upon the taxation of costs it should appear to the Registrar or Deputy Registrar that any proceedings have been taken unnecessarily, and which were not calculated to advance the interests of the party on whose behalf the same were taken, it shall be the duty of the Registrar or Deputy Registrar to disallow the costs of such proceedings as well on the taxation of costs between proctor and client, and as between proctor and client as on a taxation between party and party unless the Registrar or Deputy Registrar shall be of opinion that such proceedings were taken by the proctor because they were in his judgment reasonably exercised, conducive to the

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221. Where costs are to be taxed between party and party the Registrar or Deputy Registrar may allow to the party entitled to receive such costs the like costs as are taxable where costs are directed to be taxed as between proctor and client in respect of the following matters ;

1. Advising with counsel on the pleadings, evidence and other proceedings in the cause ;
2. Procuring counsel to settle and sign such pleadings as may appear to have been proper to be settled by counsel ;
3. Procuring and attending consultations of counsel ;
4. The amendment of petitions ;
5. On proceedings in the Registrar's or Deputy Registrar's office ;
6. Supplying counsel with copies of or extracts from necessary documents.

222. In allowing such costs the Registrar or Deputy Registrar is not to allow the party any costs which do not appear to have been necessary or proper for the attainment of justice or for the defending his rights, or which appear to have been incurred through over-caution, negligence or mistake, or merely at the desire of the party.

223. The fees and disbursements set forth in the Tariff annexed to these orders may be charged in respect of the services therein enumerated.

224. When two or more defendants defend by different proctors under circumstances that by the practice of the Court entitle them to but one set of costs, the Registrar or Deputy Registrar without any special order is to allow but one set of costs, and if two or more defendants defending by the same proctor separate unnecessarily in their answers or otherwise the Registrar or Deputy Registrar is without any special order to allow but one answer and set of costs.

225. Where costs are awarded to be paid it shall be competent to the Registrar or Deputy Registrar to tax the same without an express reference to him for that purpose.

226. Where the costs of one defendant ought to be paid by another defendant, the Judge or Surrogate Judge may order payment to be made by the one defendant to the other directly.

227. Bonds executed upon an order for security for costs are to be given to the Registrar or Deputy Registrar with whom the pleading in the suit are filed; all the defendants are to be included in the same bond and the penal sum to be inserted therein is to be fixed upon the application for security, by the Judge or Surrogate Judge who makes the order.

228. A proctor entitled to have his bill of costs taxed by the Registrar or Deputy Registrar shall file the same. A copy thereof shall be served upon the adverse proctor (if any) with a notice of the time appointed for the taxation. An appointment for taxation will be made at the time of filing the bill of costs, which time shall be at least two days subsequent to the day of serving the bill.

229. At the time appointed for the taxation the Registrar or Deputy Registrar may proceed to tax the bill if only one of the proctors in the cause be present.

230. When a bill of costs has been taxed by the Registrar or Deputy Registrar he shall certify at the foot of the bill the amount at which he has taxed it, and the proctor may then if necessary apply to the Judge or Surrogate Judge for an order for the payment thereof.

231. A proctor intending to object to the taxation shall, within six days from the completion of the taxation, or as soon thereafter as the Judge or Surrogate Judge can hear the application, apply in chambers for an order in respect of the items objected to.

232. Money ordered to be paid into Court is to be paid into the Canadian Bank of Commerce at Toronto with the privity of the Registrar and in no other manner.

233. A person desiring to pay money into Court is to produce to the Registrar the order (if any) under which the same is payable, and is to obtain from him a direction to the Bank to receive the money.

234. The Bank on receiving money to the credit of any cause or matter is to prepare a receipt therefor in duplicate, and one copy is to be delivered to the party making the deposit, and the other is to be posted or delivered the same day to the Registrar.

235. Money is to be paid out of Court upon the order of the Judge or Surrogate Judge, counter-signed by the Registrar and not otherwise.

236. The person entitled to the money is to produce to and leave with the Registrar the order entitling such person to the money.

237. The Registrar after satisfying himself that no caveat against the payment of the money has been entered, or if entered that it has been set aside or withdrawn, is to countersign the order thus: "No caveat entered against payment of this money.—Registrar" and redeliver the order to the person entitled thereto after making the necessary entries in his books respecting the same.

238. A proctor desiring to prevent the payment of money out of Court shall file with the Registrar a *præcipe* in that behalf, and thereupon a caveat against payment shall be entered in the proper place in the book containing the account of such money.

239. Bail for latent demands shall not, unless the Judge or Surrogate Judge shall otherwise order, be required on the payment of money out of Court.

XLIV.—*Account Books.*

240. The Registrar is to keep such books of accounts and otherwise relating to money in Court or invested under the authority of the Court as the Judge may from time to time think necessary to ensure safety and accuracy and ready reference.

241. The books so kept are to be open to inspection, and the Registrar is to give a certificate of the state of any account, or an extract therefrom at the desire of any party interested or his proctor.

XLV.—*Notices from Registry.*

242. Notices sent from the Registrar or Deputy Registrar may be sent in a registered letter by post and the day next after the day on which the notice is posted shall be considered as the day of service thereof, and the posting thereof shall be a sufficient service.

XLVI.—*Instruments and service thereof.*

43. Every instrument which is signed by the Registrar or Deputy Registrar and issued under the seal of the Court shall be prepared by the Registrar or Deputy Registrar on a *præcipe* filed by the proctor applying for the same, and shall bear date on the day on which it is issued.

44. Every instrument requiring service shall be served within six months from the day on which it bears date, otherwise the service shall not be valid.

45. No instrument except a warrant shall be served on a Sunday, and a warrant served on a Sunday shall be deemed to have been served on the next following day.

XLVII.—*Subpoenas.*

46. Subpoenas may be issued with a blank for the names of the witnesses, and any subpoena may contain the names of any number of witnesses.

XLVIII.—*Copies.*

47. All copies of documents whether issued from the Registry or otherwise shall be counted and charged at the rate of one hundred words per folio.

48. No more than four copies of any pleading or other proceeding are to be allowed to any party, in a cause or matter, exclusive of the draft, but inclusive of copies to file, copies to serve, briefs, and any other copies that may be required or made in the progress of the cause.

49. If more than three copies exclusive of the draft are required of any pleading or other proceeding and the party chooses to have the pleading or proceeding printed for the purposes of the suit or matter, he is, in lieu of all charges for copies to be

allowed thirty cents per folio of the pleading or proceeding, and his reasonable disbursements of procuring the same to be printed.

250. Every defendant appearing by a different proctor is entitled to demand from the plaintiff two copies of any printed petition, paying for each copy two cents per folio.

XLIX.—Seal of the Court.

251. The Judge shall cause a design for the seal of the Court to be made. A seal shall be kept and used by the Registrar and by each Deputy Registrar.

252. All instruments, orders and decrees of Court, office copies and other documents issued by the Registrar or Deputy Registrar shall be sealed with the seal of the Court.

L.—Teste.

253. Monitions, warrants, attachments, subpoenas, writs and other instruments and orders of the Court running in the name of Her Majesty the Queen, shall be given under the seal of the Court, and signed by the Registrar or Deputy Registrar.

LI.—Time.

254. Where any time limited from or after any date or event is appointed or allowed for doing an act or taking a proceeding, the computation of such time is not to include the day of such date, or of the happening of such event, but is to commence at the beginning of the next following day, and the act or proceeding is to be done or taken at the latest on the last day of such limited time according to such computation.

255. Where the time for doing an act, or taking a proceeding expires on a Sunday, or other day on

which the offices are closed, and by reason thereof such act or proceeding cannot be done or taken on that day, such act or proceeding is so far as regards the time of doing or taking the same, to be held to be duly done or taken, if done or taken on the day on which the offices shall next open.

256. The day on which an order that the plaintiff do give security for costs is served, and the time thenceforward until and including the day on which such security is given is not to be reckoned in the computation of time allowed a defendant to answer or demur.

257. Service upon proctors of pleadings, notices, orders and other proceedings is to be made between the hours of ten o'clock in the forenoon and four o'clock in the afternoon, except on Saturdays when it shall be made between the hours of ten in the forenoon and two o'clock in the afternoon.

258. If service is made after four o'clock in the afternoon on any day except Saturday, the service is to be deemed as made on the following day, and if made after two o'clock on Saturday the service is to be deemed as made on the following Monday.

259. The Judge or Surrogate Judge in Court or in Chambers shall have power to enlarge or abridge the time for doing an act or taking a proceeding in any cause or matter upon such (if any) terms as the circumstances of the case may require for the speedy and fair administration of justice, and to give any special directions as to the course of proceedings in any cause or matter.

LII.—Office hours.

260. The offices of the Court shall be open on every day in the year except on Sundays, New Year's day, Good Friday, Easter Monday, Christmas day, and days appointed for the celebration of the birthday of

Her Majesty and Her Royal Successors, and any day appointed by Proclamation for a General Fast or Thanksgiving.

LIII.—*Registrar.*

261. The Registrar shall attend all sittings of the Court held in Toronto and also before the Judge in Chambers and shall make minutes of every act of the Court or decree and enter the same in a proper book to be kept for the purpose, which is to form a record of the Court, and shall do and perform all the other duties imposed upon him by these or any future rules, and by the practice of the Court. If from illness or any other sufficient cause he should be unable to perform his duty, he may with the consent of the Judge or the Judge himself may appoint some other competent person to act for him on those occasions. He is prohibited from acting either as proctor or advocate in any suit, matter or proceeding in the Court.

LIV.—*Deputy Registrar.*

262. The Deputy Registrar shall attend all sittings of the Court held in the place where he keeps his office and also in chambers, before the Surrogate Judge residing nearest such place, and shall make minutes of every act of the Court or decree and enter the same in a proper book to be kept for the purpose which is to form a record of the Court; and shall do and perform all the other duties imposed upon him by these or any future rules, and by the practice of the Court. If from illness or any other sufficient cause he should be unable to perform his duty, he may with the consent of the Surrogate Judge, or the Surrogate Judge himself may appoint some other competent person to act for him on those occasions.

He is prohibited from acting as either proctor or advocate in any suit, matter or proceeding in the Court.

LV.—*Marshal.*

263. The Marshal shall attend the Judge in Court on all Court days. He is to execute all such warrants, decrees, monitions and instruments and orders as shall be issued from the Court, and be directed to him, and he is to make due return thereof and to do and perform all other duties imposed on him by these or any future rules, or by the practice of the Court.

LVI.—*Deputy Marshal.*

264. The Deputy Marshal shall attend all sittings of the Court on Court days held in the place where he keeps his office. He is to execute all such warrants, decrees, monitions and instruments and orders as shall be issued from the Court and be directed to him, and he is to make due return thereof and to do and perform all the other duties imposed on him by these or any future rules, or by the practice of the Court.

LVII.—*Consolidation of causes.*

265. If two or more causes be brought against the same property the petitions in which have been filed in the same office, the Judge or Surrogate Judge, as the case may be, may consolidate the same, and may afterwards if necessary dis sever the causes; but an application for the consolidation of or afterwards for the dis severance of two or more causes wherein all the petitions have not been filed in the same office, shall be made to the Judge.

266. Cause and cross cause of damage may be directed by the Judge or Surrogate Judge, as the case may be, to be heard at the same time, and upon the same evidence, but if the petitions be not filed in the same office the order for the hearing shall be made by the Judge.

LVIII.—*Forms.*

267. The Forms hereto annexed shall be followed as nearly as the circumstances of the case will allow.

LIX.—*Fees.*

268. The fees to be paid to the practitioners, officers and witnesses in causes in the Court shall be as set forth in Schedule B hereto.

LX.—*Notice of appeal.*

269. A party intending to appeal from a decision of the Court to the Supreme Court of Canada must give notice of his intention to appeal to the opposite party within fifteen days from the time of pronouncing the decision appealed from, and otherwise the appeal to be governed by the rules of the Supreme Court.

LXI.—*Miscellaneous.*

270. In all cases where a reference to the Registrar or Deputy Registrar may be directed the Court may dispose of such matters itself if it thinks fit, and may direct the proceedings to be taken in full Court or in chambers as it finds expedient.

271. Where on a proceeding before an officer of the Court pleadings or other documents filed with another officer of the Court are required, the officer with whom the pleadings or other documents are filed is upon production of a certificate signed by the officer requiring the pleadings or other documents, that the same are required for some proceedings before him to transmit the pleadings or other documents mentioned in the certificate, but if they are to be sent by parcel post or by express, before they are sent the party requiring their transmission is to deposit a sufficient sum to cover the expense of transmission and of retransmission to the office from which they are sent.

272. As soon as the purpose for which any such documents are required is completed the officer to whom they have been sent is to retransmit them to the office from which they were sent.

273. The Registrar and each Deputy Registrar shall keep in his office a book to be called "The Proctor's and Agent's book" in which each proctor residing elsewhere than in the place where such Registrar's or Deputy Registrar's office may be is to specify the name of an agent being a person entitled to act as a solicitor or attorney-at-law in Ontario, and having an office in such place, upon whom pleadings, writs, notices, orders, appointments, warrants and other documents and communications connected with any cause or matter in the office of such Registrar or Deputy Registrar, as the case may be, may be served.

Dated this 31th day of December, 1877.

KENNETH MACKENZIE.

SCHEDULE A.

Referred to in foregoing rules.

FORMS.

In filling up the forms the following directions shall be observed :

Distinguishing Number of the Cause.

The distinguishing number of the cause referred to in Rule No. 3 shall be written in the margin of the several documents.

Title of the Cause.

If the cause is instituted against a ship, or vessel, or against a ship and cargo, or against ship, cargo and freight, the title of the cause shall be the name of the ship or vessel only.

If the cause is instituted against the cargo only, the title of the cause shall be Cargo, ex [state the name of the ship on board which the cargo now is, or was lately laden.]

Name and Nature of the Property.

If the cause is against the ship only the description of the property shall be "The (state the description of the vessel) or vessel called the _____ whereof _____ now is or lately was master, her tackle, apparel and furniture."

If against the ship and freight the description shall be "The _____ or vessel called "The _____ whereof _____ now is or lately was master, her tackle, apparel and furniture, and the freight due for the transportation of the cargo now or lately laden therein."

If against ship, cargo and freight the description shall be "The _____ or vessel called the _____ whereof _____ now is or lately was master, her tackle, apparel and furniture, and the cargo now or lately laden therein, together with the freight due for the transportation thereof."

If the cause is against proceeds, the description shall be, "The proceeds arising from the sale of the &c."

Name of the Party.

If a form state the names in full, or the persons composing the same and add "Trading under the firm of (state the style of the firm) at (state address.)"

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FORM No. 3.

Warrant.

In the Maritime Court of Ontario.

VICTORIA, by the grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

To the Marshal and each Deputy Marshal of the Maritime Court of Ontario, and to all and singular his substitutes,—Greeting.

Whereas a cause of _____ has been instituted in our said Court on behalf of _____ against _____ in the sum of _____ dollars.

We therefore hereby command you to arrest the said _____ and to keep the same under arrest until you have received further orders from us.

Given under the seal of our said Court at this day of, &c.

E. F.,
Registrar
or Deputy Registrar at

Warrant

\$

Taken out by

FORM No. 4.

Detainer.

In the Maritime Court of Ontario.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

To all and singular our officers and others whomsoever,—Greeting.

Whereas a cause of _____ has been instituted

in the Maritime Court of Ontario on behalf of
 against the in the sum of dollars;
 We therefore hereby command you to detain the said
 until the same has been arrested by the
 proper officers of our said Court or by some one of
 his substitutes, or until you receive further orders
 from us.

Given under the seal of our said Court at
 this day of

E. F., Registrar
 or Deputy Registrar at

Detainer

\$

Taken out by

NOTE.—This detainer is to continue in force for not
 more than six days from the date hereof exclusive of
 the day of such date.

FORM NO. 5.

Bail Bond.

In the Maritime Court of Ontario.

(Title of cause.)

Whereas a cause of has been instituted
 in the Maritime Court of Ontario on behalf of
 against (and against intervening.)

Now therefore we of, &c., and
 of, &c., hereby jointly and severally submit
 ourselves to the jurisdiction of the said Court and
 consent that if the said shall not pay what
 may be adjudged against him in the said cause with
 costs, execution may issue forth against us, our heirs,
 executors and administrators, goods and chattels for
 a sum not exceeding dollars.

(Signature of sureties.)

Dated

This bail bond was signed by the said
 and the sureties the day of

18

Before me

FORM No. 6.

Release.

In the Maritime Court of Ontario.

VICTORIA by the grace of God of the United Kingdom
of Great Britain and Ireland, Queen, Defender of
Faith.

To the Marshal and each Deputy Marshal of the
Maritime Court of Ontario, and to all and singular
his substitutes,—Greeting.

We hereby command you to release the
now under arrest of our said Court by virtue of our
warrant.

Given under the seal of our said Court at
the day of &c.

E. F.,
Registrar
or Deputy Registrar.
at

Taken out by

FORM No. 7.

Undertaking for Caveat against Warrant.

In the Maritime Court of Ontario.

(Title of Cause.)

I (state name, address and description) hereby
undertake to enter an appearance in any cause that
may be instituted in the Maritime Court of Ontario,
against (state the name and nature of the property)
and within three days after I shall have been served
with the petition in any such cause to give bail
therein in a sum not exceeding (state the sum for
which the undertaking is given) dollars or to pay
such sum into Court. And I consent that instruments

and other documents in such cause may be left for me at (state address as required by Rule No. 8.)

Date

(To be signed by the party or by his Proctor.)

FORM No. 8.

Demurrer.

(If the cause be *in rem*)—A. B., of &c. (state name, address and calling) who is (here state shortly defendant's relation to the subject-matter of the suit) by his proctor hereby intervenes in this cause, and not admitting any of the matters and things in the plaintiff's petition contained to be true in such manner and form as the same are therein set forth and alleged, demurs in law to the said petition (if the demurrer be to part only say to so much of the said petition as seeks, &c.) and for cause of demurrer shews (set forth the causes) wherefore and for divers other good causes of demurrer appearing in the said petition the defendant demurs thereto and prays judgment whether he ought to be compelled to make further or other answer to the said petition (or so much thereof, &c.) and he pray to be hence dismissed with his costs.

(If the cause be *in personam* say the defendant A.B. by his proctor not admitting, &c.) as above.

FORM No. 9.

Answer.

In the maritime Court of Ontario.

(Title of cause.)

(If the cause be *in rem*) A. B., of &c. (state name, address and calling) by his proctor hereby intervenes in this cause, and in answer to the petition

of the said plaintiff says as follows (here make the statement of defendant's case in clear and concise language.)

(If the cause be *in personam*) A.B., of &c.,
the above named defendant by his
proctor in answer to the petition of the said plaintiff
says as follows

Answer filed on the _____ day of &c.

—
FORM No. 10.

Replication.

In the Maritime Court of Ontario.

(Title of Cause.)

The plaintiff admits, &c., and joins issue with the answer of the defendant C. D., except in so far as admissions in regard to the allegations contained in such answer are herein made. And the plaintiff will hear the cause upon petition and answer against defendant E. F. and *pro confesso* against the defendant G. H. (as the case may be.)

—
FORM No. 11.

Affidavit on production.

In the Maritime Court of Ontario.

(Style of cause or matter.)

I _____ make oath
and say as follows:

[1] I have in my possession or power the documents relating to the matters in question in this

cause set forth in the first and second parts of the first Schedule hereto annexed.

[2] I object to produce the said documents set forth in the second part of the said first Schedule.

[3] (*State upon what grounds the objection is made and verify the facts as far as may be.*)

[4] I have had, but have not now in my possession or power the documents relating to the matters in question in this cause set forth in the second Schedule hereto annexed.

[5] That the last mentioned documents were in my possession or power on (*state when.*)

[6] (*State what has become of the last mentioned documents and in whose possession they now are.*)

[7] According to the best of my knowledge, remembrance, information and belief, I have not now and never have had in my possession, custody or power, or in the possession, custody or power of my proctors or agents, or proctor or agent, or in the possession, custody or power of any other person on my behalf, any deed, account, book of account, voucher, receipt, letter, memorandum, paper or writing, or any copy of or extracts from any such document, or any document whatever relating to the matters in question in this cause or any of them, or wherein any entry has been made relative to such matters, or any of them, other than and except the documents set forth in the first and second Schedules hereto annexed.

Sworn before me at &c.

The first Schedule

The first part thereof shewing documents in my possession which I do not object to produce.

The second part shewing documents in my possession which I object to produce.

The second Schedule

Shewing documents which I have had, but have not in my possession or power

FORM No. 12.

Affidavit to lead Warrant in a cause of Restraint.

In the Maritime Court of Ontario.

(*State title of the cause.*)

I, A. B. of, &c.
make oath and say as follows: 1. I am the lawful owner of (state number) sixty-fourth shares of the or vessel belonging to the port of and the value of my said shares amount to the sum of dollars or thereabout.

2. The said vessel is now lying at and is in the possession or under the control of the owner of (state number) sixty-fourth shares thereof, and is about to be despatched by him on a voyage to against my consent.

3. I am desirous that the said vessel be restrained from proceeding until security be given to the extent of my interest therein for her safe return to the said port and the aid and process of the Maritime Court of Ontario are necessary in that behalf.

Sworn, &c.

the

day of, &c.

A. B.

FORM No. 13.

Affidavit to lead Warrant in a cause of possession.

In the Maritime Court of Ontario.

(State title of cause.)

I, A. B. of &c.
make oath and say as follows :

1. I am the lawful owner of (state the number of shares) sixty-fourth shares of the or vessel belonging to the port of,

2. That the said vessel is now lying at and is in the possession or under the control of (state the name, address and description of the person retaining possession and state whether he is the master or part owner, and if owner of how many shares,) and the said refuses to deliver up the same to me. and the certificate of registry of the said vessel is also unlawfully withheld from me by the said who is now in possession thereof.

3. The aid and process of the Maritime Court of Ontario are necessary to enable me to obtain possession of the said vessel and of the certificate of registry.

Sworn, &c.

A. B.

FORM No. 14.

Notice of sale.

In the Maritime Court of Ontario.

(State title of the cause.)

Whereas a cause of _____ has been instituted
 in the Maritime Court of Ontario on behalf of
 against _____ now lying at _____ under arrest
 by virtue of a warrant issued from the said Court,
 and no demurrer or answer has been filed in the said
 cause: This is to give notice to all persons who have
 or claim to have, any right, title or interest in the
 said _____ that if a demurrer or answer in
 the said cause be not filed in the office of the
 Registrar (or Deputy Registrar) of the said Court at
 _____ within six days from the publication
 of this notice, the said Court will order the said
 _____ to be sold to answer the claims
 instituted, or to be instituted against the same, or
 make such order in the premises as to it shall seem
 right.

E. F.,
 Registrar
 or Deputy Registrar.
 at _____

Date _____
 Taken out by _____

FORM No. 15.

Notice of proceedings in a cause of possession.

In the Maritime Court of Ontario.

(Title of the cause.)

Whereas a cause of possession has been instituted
 in the Maritime Court of Ontario on behalf of
 against the _____ or vessel called the
 now lying _____ under arrest by

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virtue of a warrant issued from the said Court, and no demurrer or answer has been filed in the cause.

This is to give notice to all persons who have or claim to have any right, title or interest in the said cause be not filed in the office of the Registrar (or Deputy Registrar) of the said Court at within six days from the publication of this notice, the said Court will decree possession of the said or vessel, her tackle, apparel and furniture to the said premises as may seem right.

Date.

E. F.
Registrar,
or Deputy Registrar.
at

Taken out by

FORM No. 16.

Writ under a decree of possession.

In the Maritime Court of Ontario.

VICTORIA, by the grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

To the Marshal and each Deputy Marshal of the Maritime Court of Ontario, and to all and singular his substitutes,—Greeting.

Whereas in a cause of possession instituted in our said Court on behalf of against the
or vessel called the her tackle, apparel,
and furniture (and against intervening)
our said Court has decreed possession of the said
or vessel to be delivered up to the said
or his lawful attorney for his use.

We therefore hereby command you to release the said vessel, her tackle, apparel and furniture from the arrest made by virtue of our warrant in that behalf, and to deliver possession thereof to the said or to his lawful attorney for his use.

Given under the seal of our said Court at
the day of

E. F.,
Registrar,
or Deputy Registrar,
at

Taken out by

—
FORM No. 17.

Commission of appraisement and sale.

In the Maritime Court of Ontario.

VICTORIA by the grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

To the Marshal and each Deputy Marshal of the Maritime Court of Ontario, and to all and singular his substitutes,—Greeting.

Whereas in a cause of instituted in our said Court on behalf of against (and against intervening,) our said Court has decreed the said to be appraised and sold; We therefore hereby authorize and command you to reduce into writing an inventory of the said and having chosen one or more experienced persons, to swear him or them to appraise the same according to the true value thereof, and upon a certificate of such value having been reduced into writing to cause the said to be sold by public auction for the highest price not under the appraised value thereof that can be obtained for the same.

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And we further command you, immediately upon the sale being completed to pay the proceeds arising therefrom into our said Court, and to file the certificate of appraisement signed by you and the appraiser or appraisers, and an account of the sale signed by you, together with this commission.

Given under the seal of our said Court at
the day of, &c.

E. F.,
Registrar,
or Deputy Registrar,
at

Taken out by

nd sale.

FORM No. 18.

Monition to bring in Certificate of Ship's Register.

In the Maritime Court of Ontario.

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VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

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Whereas in a cause of instituted in the Maritime Court of Ontario on behalf of, against the or vessel her tackle, apparel and furniture, the Judge (or Surrogate Judge) of our said Court at has ordered a Monition to be issued against you to bring, in the Certificate of Registry belonging to the said or vessel which is in your possession or under your control.

We, therefore, hereby command you the said to bring within six days from the service hereof (exclusive of the day of such service) the said certificate into the office of the Registrar (or Deputy Regis-

trar,) of our said Court at _____ to abide the
judgment of our said Court concerning the same.

Given under the seal of our said Court at
the _____ day of,

E. F.,
Registrar,
or Deputy Registrar,
at

Taken out by

FORM No. 19.

Attachment.

In the Maritime Court of Ontario.

VICTORIA, by the Grace of God of the United Kingdom
of Great British and Ireland, Queen, Defender of
the Faith.

To all and singular our Justices of the Peace, Sheriffs,
Bailiffs, Marshals, Deputy Marshals, Constables
and to all our officers, ministers and others whom-
soever,—Greeting.

Whereas in a cause of _____ instituted in the
Maritime Court of Ontario on behalf of _____ against
(and against _____ interveing,) the
said Court has decreed (name) to be attached for
(his) manifest contumacy and contempt in
(Set out contempt shortly.)

We, therefore, hereby command you to attach and
arrest the said _____ and to keep (him) under
safe and secure arrest until you shall receive further

orders from us or until (he) shall have purged himself of (his) said contumacy and contempt.

Given under the seal of our said Court at .
this day of by the Court.
E. F. Registrar,
or Deputy Registrar,
at

To be endorsed on the above.

To the keepers of all common gaols.

Receive into your custody the body of
herewith sent you for (his) manifest contu-
macy and contempt in
By the Court,

E. F. Registrar,
or Deputy Registrar.

SCHEDULE B.

REFERRED TO IN RULE 268.

Counsel.

	\$	cts.
On argument in Chambers in cases proper for the attendance of counsel (to be increased in the discretion of the Judge or Surrogate Judge not beyond \$10 to be marked at the time)	2	00
Fee on settling pleadings, replications (when special) and advising whether cause should be heard on petition and answer, or set down for examination and hearing and advising on evidence (to be increased in the discretion of the Judge or Surrogate Judge to not exceeding \$10)	2	00

On special applications to the Court, only to be
increased in the discretion of the Judge or
Surrogate Judge..... \$ cts. 5 00

Arguing demurrer, or other special argument,
or at the hearing of the cause, only to be
increased in the discretion of the Judge or
Surrogate Judge 10 00

Fee to be allowed on settling special affidavits
used in Court (to be increased at the discre-
tion of the Registrar or Deputy Registrar to
a sum not exceeding \$5)..... 2 00

On special and important points and matters
requiring the attendance of counsel, the Judge
or Surrogate Judge, Registrar, Deputy Regis-
trar or special examiner may, in lieu of the
fees for attendance, allow a counsel fee when
counsel attend the same to be noted at the
time.

Fee on consultation when necessary..... 5 00

PROCTORS.

Instructions.

Instructions for suit or to defend 3 00

For such important step or proceeding in the
suit as the Registrar or Deputy Registrar is
satisfied warrants such a charge..... 2 00

For special affidavits when allowed by the Re-
gistrar or Deputy Registrar..... 1 00

Instructions for brief..... 1 00

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Pleadings.

	\$	cts.
Drafting petition not exceeding 20 folios, including copy to keep.....	4	00
For every additional folio above 20 to be allowed in the discretion of the Registrar or Deputy Registrar.....	0	20
Drafting answer or other pleading or proceeding, per folio.....	0	20
Fee to plaintiff's proctor perusing answer.....	1	00

Affidavits.

Drafting affidavits, per folio.....	0	20
Affidavit of service including attendance to swear copy and oath.....	1	00
Perusing copies of affidavits filed or served by the opposite party, per folio	0	05

Copies.

Engrossed copies to file. Copies to serve per folio.....	0	10
Copies of order or other documents required to be served per folio.....	0	10

Briefs.

Brief per folio including briefing and fair copy of pleadings, depositions, affidavits and necessary documents subject to be reduced by the Registrar or Deputy Registrar if the same contain superfluous matter or be of unnecessary length or if the dates thereof be omitted.....	0	10
Observations or other original matter in brief, per folio.....	0	20

Orders.

	\$	cts.
Drawing special minutes, per folio prepared by the proctor.....	0	20
Appointment to settle or pass decree or order, copy and service.....	0	80
[When served on more than one party, the extra copies and service are to be allowed.]		
For every hour's attendance before the Registrar or Deputy Registrar by his appointment, on settling minutes or passing decree or order, if noted by the Registrar or Deputy Registrar or otherwise proved.....	1	00

The fee on settling minutes or passing decree or order, may be increased in the discretion of of the Registrar or Deputy Registrar in special cases to a sum not exceeding \$5.00 where the proctor attends personally on such settling or passing.

When the minutes are settled or decrees or orders passed between the proctors, the Registrar or Deputy Registrar shall have the same discretion as to the amount to be allowed.

Fee on all decrees and orders to the party obtaining the same.....	1	00
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Process.

<i>Præcipe</i> for any process including attendance with.....	0	70
Fee on all writs to the party obtaining the same	1	00

If it should become necessary for a proctor to perform services for which no fee or costs are herein specified, such fees or costs shall be allowed to him therefor as would be allowed for similar services in a suit or matter in the Court of Chancery at Toronto.

Attendances.

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Attendance on a motion in Chambers.....	\$ cts. 1 00
Attendance on Registrar's or Deputy Registrar's warrant or appointment or before a special examiner or referee, on examination of witnesses, per hour.....	1 00
To be increased in the discretion of the Registrar or Deputy Registrar to.....	2 00
[On special and important points and matters requiring the attendance of Counsel, the Judge or Surrogate Judge, Registrar or Deputy Registrar or special examiner, may, in lieu of the fees for attendance, allow a counsel fee when counsel attend the same to be noted at the time.]	
Attending consultations of counsel per hour, where the Registrar or Deputy Registrar is satisfied such attendance is beneficial to the client.....	2 00
Attendance on taxation, per hour.....	1 00
Every necessary attendance.....	0 50
Attending to make each copy of the petition not exceeding five, an office copy.....	0 50

Letters.

Letter to each defendant before suit when sent.....	0 50
Common letters in suit, each.....	0 50
Common letter between proctor and client...	0 50

	\$ cts.
With power to the Registrar or Deputy Registrar in both cases to increase the fee for special letters to an amount not exceeding.	2 00

No letter is to be allowed unless the Registrar or Deputy Registrar is satisfied of its necessity.

Necessary agency letters in the course of a cause or matter to be allowed on taxation between party and party as necessary attendances.

Postages.

The amount actually disbursed.

Miscellaneous.

Drawing bill of costs including copy to keep, per folio.....	0 20
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Copy to serve, per folio.....	0 10
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Statement of issues in Registrar's or Deputy Registrar's Office when required by him.....	2 00
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And for each folio over five, per folio.....	0 20
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Fee thereon in the discretion of the Registrar or Deputy Registrar.....	2 00
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Where it has been satisfactorily proved that proceedings have been taken by proctors out of Court, to expedite proceedings, save costs, or compromise suits, an allowance is to be made therefor in the discretion of the Judge or Surrogate Judge.

Drawing Judge's or Surrogate Judge's appointment, and attendance for his signature and to serve.....	1 00
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When served on more than one party the extra copies and services to be allowed.

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Fees to be taken by the Registrar or Deputy Registrar.

	\$ cts.
Entering cause and filing petition	0 50
Stamping affidavit of service of petition.....	0 10
Filing answer or demurrer	0 50
Entering and filing all other pleadings and affi- davits on production, interrogation and depo- sition, or other evidence.....	0 20
Filing other papers.....	0 10
Every instrument under the seal of the Court for which a fee is not specially named.....	1 00
Subpoena including filing <i>præcipe</i>	0 50
Entering note <i>pro confesso</i>	0 50
Order in Chambers including entering.....	0 50
Entering decrees and other orders made in Court, per folio.....	0 10
Amendment of record when reengrossment not necessary, per folio.....	0 20
Notice of sale or notice of proceedings in a cause of possession.....	0 75
Copy of papers required to be given out, per folio	0 10
Examining and authenticating same when pre- pared by proctor, for each 3 folios.....	0 05
Searches, each.....	0 10
Each search over one year.....	0 20

General search in a cause.....	\$ cts. 0 50
Entering cause on list for hearing.....	4 00
Notifying assessors to attend, each.....	0 25
Marking each exhibit.....	0 10
Administering oath or affirmation.....	0 20
Every warrant or appointment	0 50
Every attendance on a reference	1 00
Each additional hour.....	1 00
Taking depositions by him other than at the hearing or on a reference, per folio.....	0 20
Fee on report signed (only one to be allowed in a cause).....	1 00
Certificates of not more than two folios.....	0 50
For each additional folio.....	0 20
Forwarding papers from his office to that of another	0 50
Taxing costs, per hour.....	1 00

To the Registrar.

Each direction to the Bank to receive money.	0 50
Countersigning order for payment of money out of Court, if the sum paid out does not exceed \$500.00.....	0 50
For every additional \$500.00.....	0 50

*Fees to be taken by the Marshal or Deputy
Marshal.*

	\$	cts.		\$	cts.
.....	0	50	Receiving, filing, entering and endorsing every paper	0	25
.....	4	00	On the execution of every warrant.....	2	00
.....	0	25	On the execution of attachment for every per- son attached.....	2	00
.....	0	10	On the execution of every decree or commis- sion of unlivery, appraisement or sale.....	2	00
.....	0	20	On the execution of every other instrument for which a fee is not specially provided.....	1	00
.....	0	50	On attending appointing and swearing appraisers, each.....	1	00
.....	1	00	On delivering up ship, vessel, goods or property to the purchaser agreeably to the inventory.	2	00
at the	0	20	On attending the unlivery of the cargo, or sale of ship, or vessel or goods, per day.....	2	00
.....	1	00	On retaining possession of a ship or vessel, or of a ship or vessel and goods, per day.....	0	50
.....	0	50	[Exclusive of such reasonable disbursements actually incurred in the custody thereof as the Registrar or Deputy Registrar may allow.]		
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If the Marshal or Deputy Marshal or any of his substitutes is required to go a greater distance than five miles from his office to perform any of the above duties, he will be entitled to his reasonable expense for travelling, board and maintenance, as the Registrar or Deputy Registrar may allow.

	\$	cts.
Poundage on the proceeds of any vessel, goods or property, sold under the decree or order of the Court if under \$250.....	1	00
If over \$250 and not exceeding \$500.....	2	00
For every additional \$500.....	0	50
Calling each cause at the hearing in Court.....	1	00
Calling each witness.....	0	10

Appraisers.

Each, per appraisement.....	2	50
To be increased to a sum not exceeding \$5 in the discretion of the Registrar or Deputy Registrar.		

Assessors.

Each, per day (to be distributed rateably among the causes if more than one tried in a day).....	6	00
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Special Examiner.

Every appointment.....	0	50
Administering oath or taking affirmation	0	20
Marking every exhibit.....	0	10
Taking depositions, per hour.....	1	00
Fair copy for solicitor, per folio (when required)	0	10
Every attendance out of office when within two miles.....	2	00

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Every attendance over two miles out of office.		
Extra per mile.....	0	20
Every certificate.....	0	50
Making up and forwarding answers, depositions, etc., including filing <i>præcipe</i>	0	50
Every attendance upon an appointment, when solicitor or witnesses do not attend, and examiner not previously notified.....	1	00

Allowance to Witnesses.

To witnesses residing within three miles of
the place to which summoned, per diem.... 1 00

To witnesses residing over three miles from
such place..... 1 25

Barristers and attorneys and proctors, physicians
and surgeons, when called upon to give
evidence in consequence of any professional
service rendered by them or to give opinions,
per diem..... 4 00

Engineers and surveyors, when called upon to
give evidence of any professional service
rendered by them, or to give evidence depend-
ing upon their skill or judgment, per diem... 4 00

If the witnesses attend in one cause only,
they will be entitled to the full allowance.

If they attend in more than one case they
will be entitled to a proportionate part in each
cause only.

The travelling expenses of witnesses over ten
miles, shall be allowed according to the sums
reasonably and actually paid, but in no case
shall exceed one shilling per mile one way.

KENNETH MACKENZIE.

Dated 31st day of December, 1877.

PRIVY COUNCIL CHAMBER,

Ottawa, 11th day of February, A.D. 1878.

I, the undersigned, do hereby certify that the foregoing general rules of the Maritime Court of Ontario, with forms and tariff of costs and fees, were approved by His Excellency the Governor General in Council on the eighth day of February instant, under the provisions of the 8th section of "The Maritime Jurisdiction Act, 1877."

W. A. HIMSWORTH,
Clerk of the Queen's Privy Council
for Canada.

PRIVY COUNCIL CHAMBER,

Ottawa, 13th day of February, 1878.

I, the undersigned, do hereby certify that the following Tariff of fees to be paid by suitors in the Maritime Court of Ontario was fixed by His Honour the Deputy of the Governor General in Council on the 12th day of February instant, under the provisions of the 14th section of "The Maritime Jurisdiction Act, 1877," that is to say :—

On every petition by which a cause is instituted.	\$2 00
On every answer or demurrer filed.....	1 00
On every replication filed.....	1 00
On every order, decree, office copy and other documents sealed with the seal of the Court.	50
On the hearing of every cause.....	2 00
On the hearing of every appeal from the Registrar or Deputy Registrar.....	2 00

W. A. HIMSWORTH,
Clerk of the Queen's Privy Council
for Canada.

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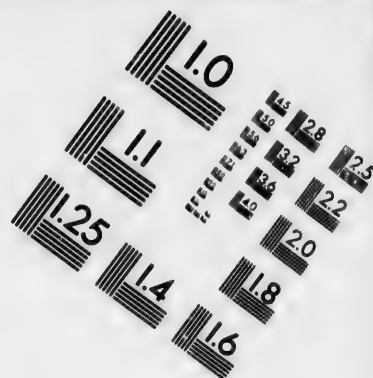
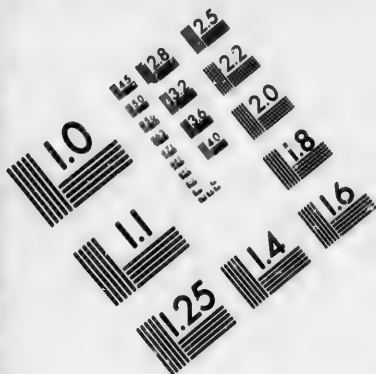
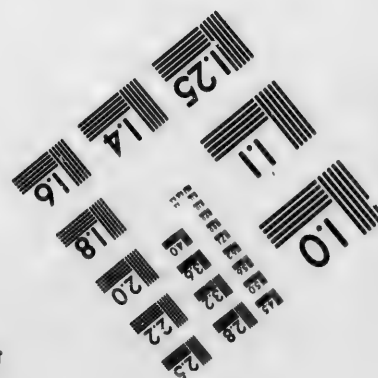
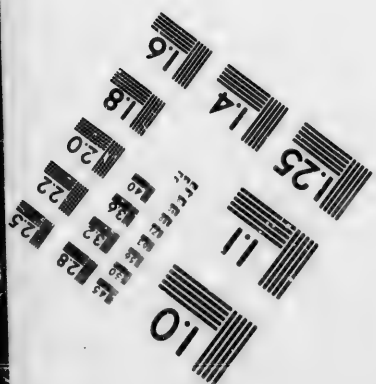
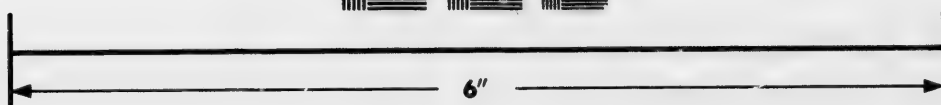
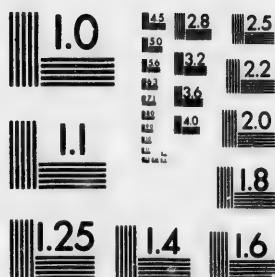


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